

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1079

Introduced by Assembly Member V. Manuel Perez
(Coauthors: Assembly Members Blumenfield, Chesbro, Portantino,
and Salas)
(Coauthor: Senator Ducheny)

February 27, 2009

An act to add Section 71103.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1079, as amended, V. Manuel Perez. Environment: California-Mexico border.

Existing law creates the California Border Environmental and Public Health Protection Fund. The money in that fund is available, upon appropriation, to the Secretary for Environmental Protection to assist local governments in implementation of projects to identify and resolve environmental and public health problems that directly threaten the health or environmental quality of California residents or sensitive natural resources of the California border region, to provide technical assistance, to provide funds for equipment and labor costs associated with emergency abatement of environmental and public health problems imposed on residents of California due to cross-border impacts of

pollutants originating from Baja California, and to provide analytical and scientific equipment and services needed by border area public agencies to identify and monitor the sources of environmental and public health threats posed by the cross-border transmission of environmental pollutants and toxics.

This bill would, *contingent upon the execution of an agreement with the City of Calexico for the purpose of providing the necessary funding*, require the California-Mexico Border Relations Council to develop a strategic plan containing specific elements to guide the implementation of the New River Improvement Project. The bill would authorize the council to appoint, convene, and oversee a technical advisory committee that would advise the council regarding the necessary studies and activities to carry out the project. The bill would create the New River Improvement Project Account in the fund and moneys in the account, upon appropriation by the Legislature, would be expended for activities related to the New River.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 71103.5 is added to the Public Resources
- 2 Code, to read:
- 3 71103.5. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) The New River poses an imminent and severe threat to the
- 6 public health of residents of Calexico, California, and adjacent
- 7 communities in Imperial County. Since the 1940s, the New River
- 8 has been recognized as a significant pollution and human health
- 9 problem, primarily because of extremely high concentrations of
- 10 fecal coliform bacteria.
- 11 (2) While there have been recent measurable water quality
- 12 improvements as a result of sewage infrastructure projects
- 13 implemented and completed during the last 10 years in Mexicali,
- 14 Mexico, the residual and projected pollution in the New River
- 15 coming from Mexico remains a significant threat to public health
- 16 and the environment.
- 17 (3) Current bacteria levels in the New River are several orders
- 18 of magnitude above the state standards for bacteria. Based on these
- 19 levels and the historic levels of pollution, the waterway is believed

1 to carry pathogens that cause tuberculosis, encephalitis, polio,
2 cholera, hepatitis, and typhoid. The waterway also carries other
3 contaminants in concentrations that are in violation of federal,
4 state, and Mexican water quality standards by several hundredfold.

5 (4) The New River is listed as an impaired river by the United
6 States Environmental Protection Agency due to low dissolved
7 oxygen (DO) and the presence of chlordane, chlorpyrifos, copper,
8 dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin,
9 mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs),
10 sediment, selenium, toxaphene, toxicity, trash, and volatile organic
11 compounds (VOCs).

12 (5) The New River is a major contributor of pollution to the
13 Salton Sea, and failure to address water quality problems in the
14 New River are impeding the ability of the state to implement laws
15 and programs designed to restore and protect this important
16 environmental and wildlife habitat resource.

17 (6) The New River condition in the border area is also an
18 aesthetic nuisance for Calexico residents and has historically
19 inhibited the city's socioeconomic well-being and growth.

20 (7) A coordinated and comprehensive state strategy is needed
21 to deal with the residual and projected pollution so that the New
22 River and associated river channel can be enhanced to a condition
23 that will allow the residents of Calexico and Imperial County to
24 utilize them as recreational and natural assets as contemplated in
25 the California River Parkways Act of 2004 (Chapter 3.8
26 (commencing with Section 5750) of Division 5).

27 (8) *In the Budget Act of 2009, as amended by Chapter 1 of the*
28 *Statutes of 2009 Fourth Extraordinary Session, eight hundred*
29 *thousand dollars (\$800,000) was appropriated to the City of*
30 *Calexico for various planning needs necessary to develop a river*
31 *parkway plan and river improvement project for the New River.*
32 *The moneys were appropriated in order to secure and serve as*
33 *matching funds for the four million dollars (\$4,000,000) allocated*
34 *pursuant to the Safe, Accountable, Flexible, Efficient*
35 *Transportation Equity Act: A Legacy for Users (Public Law*
36 *109-59) to the City of Calexico for the development of bicycle*
37 *paths and public park space adjacent to the New River.*

38 (9) *The City of Calexico, as the recipient of funding pursuant*
39 *to the California River Parkways Act of 2004, has agreed to*

1 *provide necessary financial support to the council for the*
2 *development of the council's strategic plan.*

3 (b) As used in this section, the following terms have the
4 following meanings:

5 (1) "Agency" means the California Environmental Protection
6 Agency.

7 (2) "City" means the City of Calexico, California.

8 (3) "Council" means the California-Mexico Border Relations
9 Council established pursuant to Section 8711 of the Government
10 Code.

11 (4) "County" means the County of Imperial, California.

12 (5) "IBWC" means the International Boundary and Water
13 Commission, United States Section.

14 (6) "New River Improvement Project" or "project" means a
15 project to study, monitor, remediate, and enhance New River water
16 quality in the County of Imperial to protect human health, and
17 develop a river parkway suitable for public use and enjoyment.

18 (c) Pursuant to the authority granted to the council under Section
19 8712 of the Government Code *and contingent upon the execution*
20 *of an agreement with the City of Calexico for the purpose of*
21 *providing the necessary funding*, the council shall develop a
22 strategic plan to guide the implementation of the New River
23 Improvement Project. The strategic plan shall include, but need
24 not be limited to, all of the following elements:

25 (1) Quantification of current and projected New River water
26 quality impairments and their threat to public health.

27 (2) Prioritization of the actions necessary to protect public health
28 and to meet New River water quality objectives and other
29 environmental goals, such as improving the quality of water flows
30 into the Salton Sea.

31 (3) Identification of potential funds for the implementation of
32 the project, and potential lead agencies that would be responsible
33 for environmental review of activities related to the cleanup and
34 restoration of the New River.

35 (4) Identification of the appropriate federal, state, and local
36 agencies with a role in implementing and achieving the New River
37 Improvement Project.

38 (d) (1) To the extent permitted by law, the council may work
39 with appropriate binational, federal, state, local, and
40 nongovernmental organizations on both sides of the

1 California-Mexico border to develop the strategic plan and to fund
2 and establish cooperative water quality monitoring, public health
3 studies, inspection, and technical assistance programs as needed
4 to support, convene, and oversee the project.

5 (2) To further the objectives of this subdivision, the council
6 may convene and oversee a technical advisory committee. The
7 advisory committee shall advise the council regarding the necessary
8 studies and activities to carry out the project, and shall serve at the
9 pleasure of the council. The advisory committee shall include
10 representatives from the following:

11 (A) Impacted cities and counties.

12 (B) Relevant local, regional, and state agencies and departments.

13 (C) Nongovernmental organizations.

14 (D) Other stakeholders deemed necessary by the council.

15 (3) The council shall appoint the chair of the committee and
16 may expand the membership and expertise of the committee as it
17 deems necessary.

18 (4) *The council may enter into an agreement, including an*
19 *interagency agreement and memorandum of understanding, with*
20 *public agencies, including the city, to accept, manage, and expend*
21 *funds for the implementation of this section.*

22 (e) *This section does not modify existing roles, responsibilities,*
23 *or liabilities of the State of California, the City of Calexico,*
24 *Imperial County, or any other governmental agency, under those*
25 *laws that regulate, protect, and clean up surface waters entering*
26 *the United States from Mexico.*

27 (e)

28 (f) The New River Improvement Project Account is hereby
29 created in the California Border Environmental and Public Health
30 Protection Fund to receive moneys for activities related to the New
31 River Improvement Project from sources identified in Section
32 71101 and other sources. Upon appropriation by the Legislature,
33 moneys in the account shall be expended to implement the purposes
34 ~~of this section and for purposes identified in~~ *identified in*
35 ~~subdivision (c) or~~ Section 71102 that are related to the New River.